

REMARKS

The Final Office Action of May 1, 2008, and the Advisory Action of August 20, 2008, have been carefully reviewed, and in view of the above amendments and the following remarks, reconsideration and allowance of the pending claims are respectfully requested.

In the above Office Action, claims 7-10 were rejected under 35 U.S.C. § 112, second paragraph as being indefinite, claims 1, 5 and 12 were rejected under 35 U.S.C. § 102(b) as being anticipated by Ginn (U.S. Patent No. 6,022,313) and claims 3, 4, 11, 13 and 14 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Ginn.

As previously amended, claims 7 and 8 now depend from pending claim 5. In view of these amendments, Applicant respectfully submits that the rejections under Section 112 have been obviated.

Claim 1 recites a cone portion fixedly secured to and integral with a distal end of said endoscopic barrel. The cone portion has an interior surface facing the distal end of said endoscopic barrel and a conical exterior surface facing outwardly from the apparatus. As amended above, the conical exterior surface is defined by a base ring having a circular circumference and a plurality of side portions tapering toward a vertex and forming a pointed distal end of said cone portion. As further clarified, the cone portion includes at least one fork recess in the conical exterior surface for receiving and maintaining the at least one manipulator fork against the exterior surface of the cone portion when the at least one manipulator fork is fully retracted so as to preserve a smooth profile of the exterior surface of the cone portion between the circular base and the pointed distal end. In addition, the at least one

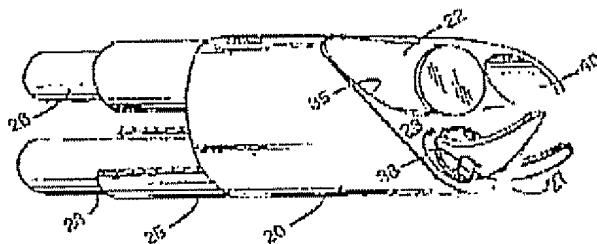
fork recess does not allow the at least one manipulator fork to pass through the exterior surface of the cone portion when in a fully retracted position.

In rejecting Claim 1, the Examiner relies upon Ginn for disclosing an apparatus for harvesting a saphenous vein. The apparatus of Ginn includes a guide member 20 with a slanted surface 23. Ginn does not disclose or suggest a conical exterior surface facing outwardly from the apparatus as recited in Claim 1. The Examiner relies on a definition of conical as "a shape whose base is a circle and whose sides taper up to a point" and takes the position that Ginn thus discloses a conical exterior surface. (Emphasis added.) Applicant submits that the terminal end of Ginn is not a conical surface even by the Examiner's definition, as there is only a single side that tapers and there is no point. As clearly shown in Figure 2 of Ginn, the distal end of the apparatus is defined by a slanted surface, not "a vertex .. forming a pointed distal end of said cone portion" as recited above in amended claim 1. Accordingly, Applicant submits that a slanted surface on a round base is not a conical surface as defined in claim 1.

Still further, the guide member 20 of Ginn includes a plurality of lumens for receiving surgical instruments, such as scissors 28. Ginn does not disclose or suggest at least one fork recess for receiving and maintaining said at least one manipulator fork against the exterior surface of said cone portion when said at least one manipulator fork is fully retracted so as to preserve a smooth profile of the exterior surface of said cone portion between the circular base and the pointed distal end and which does not allow said at least one manipulator fork to pass therethrough when in a fully retracted position. Clearly, as illustrated in Figure 1 of Ginn, the

lumen 38 permits retraction of the scissors 28 through the lumen opening and into the tube 25, thereby defining a "fully retracted" position as recited in claim 1.

The Examiner's contention that when the fork is in an open position it would be prevented from retracting is without merit, as such does not define the fully retracted position shown in Figure 1 of Ginn. Moreover, even if this interpretation is advanced, the resulting configuration would be along the lines of that shown below:



As illustrated in Sketch A, it is clear that such a configuration does not satisfy the further recitation in claim 1 that said at least one fork recess by not allowing said at least one manipulator fork to pass through the recess when in a fully retracted position preserves a smooth profile of the exterior surface of said cone portion between the circular base and the pointed distal end. The protruding scissors shown in the above sketch do not maintain the slanted surface of the guide member and would not allow insertion thereof in such a position.

Thus, Applicant respectfully submits that Ginn fails to anticipate the invention of Claim 1.

Claim 12 similarly recites that said conical exterior surface is defined by a circular base ring and a plurality of side portions tapering toward a vertex forming a pointed distal end of said cone portion. As set forth above, the apparatus of Ginn includes a guide member 20 with a slanted surface 23. Ginn does not disclose or suggest a conical exterior surface as defined in claim 12. Claim 12 further recites

that the manipulator fork is disposed exterior to the cone portion when in a retracted position and when dissecting the desired blood vessel. The guide member 20 of Ginn includes a plurality of lumens for receiving surgical instruments, such as scissors 28. The lumen 38 permits retraction of the scissors 28 through the lumen opening and into the tube 25. Accordingly, Applicant submits that Claim 12 is not anticipated by Ginn.

The remaining claims depend upon either Claim 1 or Claim 12 and are thus patentable over the cited prior art for at least the reasons set forth above.

Newly added claims 15 and 16 further define the cone portion as illustrated in the figures of the present application, in geometrical terms. Generally speaking, the vertex of the conical exterior surface is centrally located due to the tapering of the plurality of side portions. Applicant submits that Ginn fails to disclose such a geometrical configuration.

CONCLUSION

In view of the above amendments and remarks, Applicant respectfully submits that the claims of the present application are now in condition for allowance, and an early indication of the same is earnestly solicited.

Should any questions arise in connection with this application or should the Examiner believe that a telephone conference would be helpful in resolving any remaining issues pertaining to this application; the Examiner is kindly invited to call the undersigned counsel for Applicant regarding the same.

Respectfully submitted,

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Date: September 2, 2008

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